

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSE RODRIGUEZ,

Plaintiff,

vs.

FEDEX FREIGHT EAST, INC.,

Defendant.

Bkrptcy No. 04-47510-PJS
Adversary No. 05-5149-PJS
HON. PHILLIP J. SHEFFERLY
Case No. 08-CV-10637
HON. GEORGE CARAM STEEH

_____/

ORDER SETTING ASIDE ADDITIONAL DISCOVERY PERIOD
SET FORTH IN MAY 27, 2008 ORDER (# 10)

Consistent with the court's prior May 27, 2008 Order, and at the request of plaintiff Rodriguez's Counsel, the court conducted a June 2, 2008 in-chambers conference to consider Counsel's objections to the decision to reopen discovery for a period of 90 days, through August 19, 2008. See May 27, 2008 Order, at 7. Plaintiff's Counsel essentially argued that allowing further discovery violates the Sixth Circuit's ruling and mandate in In re Rodriguez, 487 F.3d 1001 (6th Cir. 2007) which vacated summary judgment as to Rodriguez's remaining national origin discrimination claim under Michigan's Elliott-Larsen Civil Rights Act (ELCRA), M.C.L. §§ 37.2101, et seq., of failure to promote, and remanded for a determination of whether defendant FedEx bore its burden of demonstrating that FedEx would have refused to promote Rodriguez even absent direct evidence of a discriminatory motive. In re Rodriguez, 487 F.3d at 1009-10. Plaintiff's Counsel pointed out that FedEx's Counsel had previously claimed no need for further discovery. In this case, not a single deposition of a party or potential witness on either side has occurred. Defense Counsel stated her preference for taking at least three depositions prior to trial.

After considering the parties' stated positions, the court concluded that Rodriguez's remaining ELCRA claim of failure to promote should proceed to trial without the 90-day extension of discovery provided for in the May 27, 2008 Order. Accordingly,

That part of the court's May 27, 2008 Order providing for an additional 90-day discovery period, through August 19, 2008, is hereby SET ASIDE. After consulting with counsel, a trial schedule has issued under separate Order.

SO ORDERED.

Dated: June 3, 2008

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on June 3, 2008, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk